

ASSEMBLY, No. 2781

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED FEBRUARY 28, 2022

Sponsored by:

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Establishes county-based mitigation plan to allow businesses to operate during pandemic.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning public health emergencies and supplementing
2 P.L.2005, c.222.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. As used in this act:

8 “Pandemic” means the spread of an infectious disease across
9 countries or continents as declared by the World Health
10 Organization to be a pandemic.

11 “Business” means any establishment offering a good or service
12 to the public.

13

14 2. The Legislature finds and declares that:

15 a. Since the first reported case in March of 2020, this State has
16 been confronting the coronavirus disease 2019 (COVID-19)
17 pandemic, which has necessitated certain public health measures to
18 curtail its spread.

19 b. The measures used to curtail the spread of COVID-19
20 include the closure and limitation of certain businesses, and
21 implementation of social distancing guidelines, which are being
22 implemented uniformly across the State.

23 c. The continued use of uniform measures in the State ignores
24 the geographic variations in positive cases, hospitalizations, and
25 transmission rates.

26 d. Ignoring the geographic variations of COVID-19’s spread
27 negatively affects businesses that can safely operate in areas of low
28 risk in the State.

29 e. A geographic approach using appropriate established metrics
30 to analyze the spread of a disease can allow businesses to operate
31 and re-open safely in low-risk areas while slowing the spread of
32 disease.

33 f. Having transparent metrics with established thresholds at
34 which restrictions will be imposed or lifted helps business owners
35 and residents plan for the future and understand the need for
36 complying with public health measures in their local area.

37 g. Globalization and the increasing convenience of travel allow
38 infectious diseases to spread rapidly, creating the possibility that
39 pandemics may become more frequent in the future.

40 h. Establishing a permanent framework to allow businesses to
41 operate during a pandemic, while mitigating its spread, can help
42 businesses to survive and continue operations while protecting the
43 health and safety of citizens of this State.

44

45 3. a. Notwithstanding any law, rule, or regulation to the
46 contrary, the Governor, in consultation with the Commissioner of
47 Health, shall develop and implement a mitigation plan to allow

1 businesses to operate during a pandemic that is affecting the State.

2 This plan shall:

3 (1) use empirical data, over a seven-day rolling average, to
4 determine the spread of the disease within the State's 21 counties
5 and to develop categories of risk pursuant to paragraph (2) of
6 subsection a. of this section. The data used shall include, but not be
7 limited to:

8 (a) the number of new cases per 100,000 persons per day in
9 each county;

10 (b) hospital capacity in each county;

11 (c) positivity rates among those tested for the disease;

12 (d) the number of those hospitalized with either a confirmed or
13 suspected case of the disease; and

14 (e) the effective reproduction number for the disease;

15 (2) categorize the risk of the disease spreading within the State
16 by color and establish appropriate thresholds for reaching each
17 category. The following colors shall be used as a category of risk:

18 (a) red, which shall indicate that there is an active outbreak and
19 is the highest level of risk;

20 (b) yellow, which shall indicate that the risk of an outbreak is
21 moderate; and

22 (c) green, which shall indicate that the risk of an outbreak is
23 low;

24 (3) assign one of the categories of risk in paragraph (2) of
25 subsection a. of this section to each of the State's 21 counties and
26 565 municipalities, with additional consideration given to a county
27 containing a jail, university, or other large congregate facility;

28 (4) establish guidelines detailing the restrictions to be imposed
29 on businesses under each risk category; and

30 (5) restrict business activity within a county based on the risk
31 category assigned to the area. For an affected county with a
32 population density greater than 1,500 persons per square mile, the
33 Governor may restrict business activity countywide or by
34 municipality. If an affected county has a population density
35 beneath 1,500 persons per square mile, the Governor shall restrict
36 business activity by each municipality within that county.
37 Notwithstanding the Governor's restrictions, a municipality within
38 an affected county may further restrict business activity within its
39 boundaries if the municipality has reason to believe, based on
40 empirical data in paragraph (1) of subsection a. of this section, that
41 it should be subject to restrictions beyond those established under
42 this section.

43 b. The Governor shall have the authority to summarily suspend
44 the gaming operations of casino licensees within the State pursuant
45 to P.L.2005, c.222 (C.26:13-1 et seq.) and P.L.1942, c.251
46 (C.App.A:9-33 et seq.) as part of the restrictions that the Governor
47 may implement under this section. A holder of a liquor license,
48 pursuant to P.L.1953, c.32 (C.33:1-1 et seq.), with retail

1 consumption privileges and operating a restaurant, cafeteria, bar, or
2 other food or beverage establishment, with an outdoor area, is
3 exempt from fines imposed pursuant to P.L.1955, c.80 (C.33:1-31)
4 for violating outdoor customer seating restrictions established by an
5 executive or administrative order issued by the Governor or
6 commissioner.

7 c. Restrictions pertaining to each category of risk and the data
8 trends of each county shall be published on the Department of
9 Health website to provide transparency for affected business owners
10 and the public. A county assigned to a category higher than green
11 shall not be reassigned to a lesser category without a three-week
12 evaluation of the area's empirical data to determine its progress.

13
14 4. This act shall take effect immediately.

15 16 17 STATEMENT

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19 This bill directs the Governor to develop and implement a
20 county-based mitigation plan to allow businesses to operate during
21 a pandemic.

22 Under this bill, the Governor, in consultation with the
23 Commissioner of the Department of Health, is directed to develop
24 and implement a mitigation plan to allow business to operate during
25 a pandemic. This plan will be developed by using empirical data,
26 over a seven day rolling average, to establish three categories of
27 risk that will be organized by the following colors:

28 (1) Red, which shall indicate that there is an active outbreak and
29 is the highest level of risk;

30 (2) Yellow, which shall indicate that the risk of an outbreak is
31 moderate; and

32 (3) Green, which shall indicate that the risk of an outbreak is
33 low.

34 Once these categories, and the thresholds for reaching them, are
35 established, the Governor will assign one of the categories to each
36 of the State's 21 counties and 565 municipalities, with additional
37 consideration given to a county containing a jail, university, or
38 other large congregate facility. The Governor will then restrict
39 business activity within a county based on the category that the
40 county was assigned to. For an affected county with a population
41 density greater than 1,500 persons per square mile, the Governor
42 may restrict business activity countywide or by municipality. If an
43 affected county has a population density beneath 1,500 persons per
44 square mile, the Governor will restrict business activity by
45 municipality. Municipalities within an affected county may further
46 restrict business activity if the municipality has reason to believe
47 that, based on empirical data, they should be subject to restrictions
48 beyond those mandated upon them.

1 A county assigned to a category higher than green will not be
2 reassigned to a lesser category without a three-week evaluation of
3 the area's empirical data to determine its progress. Restrictions
4 pertaining to each category of risk and the data trends of each
5 county will be published on the Department of Health website to
6 provide transparency for affected business owners and the public.